

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

16-CR-6063-FPG

TONY IVEY

Sentencing Memorandum

Defendant.

On June 13, 2016 Tony Ivey called the United States Attorney's Office and spoke with the Assistant United States Attorney on duty. Tony complained to the attorney about problems he was having with the Rochester Housing Authority. On June 14, 2016 Tony Ivey again contacted the United States Attorney's Office and spoke with the same Assistant United States Attorney. When the attorney told Mr. Ivey that he could not help him, Tony threatened the attorney over the phone. Tony is sorry he threatened the Assistant United States Attorney. Tony realizes he should have held his temper.

Tony Ivey's Life

Tony Ivey was always a small person with a bad attitude. Tony grew up without a father. Tony did not have any positive role models growing up. Tony's childhood was extremely unstable because he was raised without adult supervision. Tony's mother would go to work, thus leaving Tony to raise himself. Tony dropped out of school after 8th grade. As a teenager and young adult Tony managed to get arrested numerous times; but once Tony turned 40 years old he had not been arrested until now. Tony is 53 years old.

Tony has an extensive criminal history. His criminal history reflects Tony's need for anger management counseling, which he has never had. There are programs where he can go to help him understand that his anger is only making his problems worse.

Tony Ivey has known his share of grief as well. Ikeem, Tony's daughter was murdered in Atlanta, Georgia in 2005. Tony had frequent contact with his daughter and he still grieves for her. Her death only added to Tony's anger.

Tony was residing with Rosemary Speed on Cheektowaga, New York when he was arrested. Ms. Speed has travelled from Buffalo to Rochester for many of Tony's Court appearances. Ms. Speed is employed by the IRS in Buffalo, New York. She has kept in contact with the Federal Public Defender's Office. Tony can live with Ms. Speed upon his release. Ms. Speed is a positive influence in Tony's life and will support him. She too, understands Tony's need for anger management counseling and will see that he gets it.

According to the Presentence Investigation Report prepared for Tony's sentencing, his offense level is a 13, and his criminal history category (CHC) is a II. From that the Court should deduct four levels for a final Sentencing Guideline range of Level 9 and CHC II, bringing Tony's guideline range to 6 to 12 months. Simply put, the offense level should be decreased by four levels if "the offense involved a simple instance evidencing little or no deliberation." *See United States v. Wright-Darrisaw*, 718 F.3d 35 (2d Cir. 2015). Tony is scheduled to be sentenced on March 7, 2017. On that date, Tony will have been detained for eight months and 22 days. The defense requests that the Court sentence Tony Ivey to a sentence of time served, and a period of supervised release. The defense also requests that the Court order Tony to participate in anger management counseling.

DATED: February 24, 2017
Rochester, New York.

Respectfully submitted,

/s/Robert G. Smith

Robert G. Smith
Assistant Federal Public Defender
Federal Public Defender's Office
28 E. Main Street, Suite 400
Rochester, New York 14614
585-263-6201
Robert_Smith@fd.org
Counsel for Tony Ivey

To: Geoffrey J.L. Brown, AUSA
David B. Spogen USPO